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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,009	12/27/2000	Paul Giotto	FREI.P-049	6616
21121	7590	03/15/2004	EXAMINER	
OPPEDAHL AND LARSON LLP P O BOX 5068 DILLON, CO 80435-5068			DUONG, THOMAS	
			ART UNIT	PAPER NUMBER
			2143	11

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/750,009

Applicant(s)

GIOTTA, PAUL

Examiner

Thomas Duong

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8-10</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Objections***

1. Claim 12 is objected to because of the following informalities:
  - *claim 12* appears to depend on *claim 11* instead of *claim 1*, because *claims 11 and 12* are both methods whereas *claim 1* is a message system.

During the course of prosecution, Examiner will treat as such. Please make the appropriate correction.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry et al. (US005581753A) and in view of Theimer et al. (US006557111B1).
4. With regard to *claims 1, 7, 13, 17 and 20*, Terry reference discloses,
  - *comprising a server cluster containing a group of client manager nodes (session managers 22)*, (Terry, abstract; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2)

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- *each client manager node of said group of client manager nodes comprising means for connecting to clients and means for managing client connections, (Terry, abstract; col.1, lines 6-9; col.2, lines 54-64; col.3, lines 9-45; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2; fig.4)*
- *the server cluster further containing a group of message manager nodes (servers 12) being configured differently from the client manager nodes, (Terry, abstract; col.4, lines 39-59; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2)*
- *each message manager node comprising means for storing and distributing messages, (Terry, abstract; col.4, lines 39-59; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2)*

However, Terry reference does not explicitly disclose,

- *the system further comprising communication channel means for providing a multicast communication channel between said at least one client manager node and said at least one message manager node.*

Theimer teaches,

- *the system further comprising communication channel means for providing a multicast communication channel between said at least one client manager node and said at least one message manager node. (Theimer, abstract; col.1, lines 8-14; col.2, lines 34-38; col.2, line 58 – col.3, line 16;*

col.4, lines 1-16; col.7, lines 24-67; col.8, lines 1-37; col.8, line 38 – col.9, line 67)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Theimer reference with Terry reference to provide lower latency updates in the system. A primary advantage of multicasting is that it places a relatively low load on the sender, intermediate networks and routers. The sender does not need to send a separate copy to each receiver to be updated. Hence, the intermediate networks and routers see only a logarithmic fraction of the total load. This allows the system to send a large number of updates with relative frequency.

5. With regard to *claims 2-6, 8, 14-16 and 18-19*, Terry and Theimer references disclose the invention substantially as claimed,

See *claims 1, 7, 13 and 17* rejection as detailed above.

Furthermore, Terry and Theimer references disclose,

- *a plurality of message manager nodes in said group of message manager nodes*, (Terry, abstract; col.4, lines 39-59; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2; Theimer, abstract; col.1, lines 17-32; col.2, line 58 – col.3, line 16)
- *said message manager nodes being configured to comprise destinations*, (Terry, abstract; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2; Theimer, col.4, line 65 – col.5, line 5; col.7, lines 24-67; col.8, lines 1-37; col.8, line 38 – col.9, line 67; fig.2-3)

- *said system further comprising a plurality of client manager nodes, (Terry, abstract; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2; Theimer, col.4, line 65 – col.5, line 5; fig.2-3)*
- *each client manager node comprising computer program code means for sending message data across said multicast communication channel,*
- *said message data containing a destination information and not containing an individual address of a message manager node,*
- *each message manager node comprising computer program code means for receiving message data comprising destination information matching a destination of the message manager. (Terry, abstract; col.6, lines 19-34, lines 35-63; col.6, line 64 – col.7, line 57; fig.2; Theimer, abstract; col.1, lines 8-14; col.2, lines 34-38; col.2, line 58 – col.3, line 16; col.4, lines 1-16; col.4, line 65 – col.5, line 5; col.7, lines 24-67; col.8, lines 1-37; col.8, line 38 – col.9, line 67; fig.2-3)*

6. With regard to *claims 9-12*, Terry and Theimer references disclose the invention substantially as claimed,

See *claim 8* rejection as detailed above.

Furthermore, Theimer reference discloses,

- *wherein in said group of message managers primary message managers and backup message managers are provided, each backup message manager containing the same destinations as one associated primary message manager and controlling regularly whether said associated*

*primary message manager functions, wherein each backup manager monitors the multicast communication on said multicast communication channel and stores the same message data as said associated primary message manager, and wherein each backup manager does not send any message data unless said associated primary message manager fails to function.* (Theimer, col.3, lines 58-67; col.7, lines 24-67)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Theimer reference with Terry reference to increase the availability of the network. By implementing a multicasting design, a failure in the primary message manager can be quickly detected by the backup and switched operation to it.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
  - Mukherjee et al. (US006466978B1)
  - Inohara et al. (US006182111B1)
  - Lambert et al. (US006629138B1)
  - Datta et al. (US005649103)
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is


703/305-1886. The examiner can normally be reached on M-F 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703/308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-3900.

*Thomas Duong (AU2143)*

*March 2, 2004*

  
DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100